

AMENDED IN ASSEMBLY AUGUST 17, 2009

AMENDED IN ASSEMBLY JULY 14, 2009

**SENATE BILL**

**No. 477**

---

**Introduced by Senator Florez**

February 26, 2009

---

~~An act to amend Section 33334.2 of the Health and Safety Code, relating to housing.~~ *An act to add Section 6713 to the Labor Code, relating to employment.*

LEGISLATIVE COUNSEL'S DIGEST

SB 477, as amended, Florez. ~~Low- and moderate-income housing: agency powers.~~ *Employment: heat illness prevention.*

*Existing law permits the Occupational Safety and Health Standards Board within the Department of Industrial Relations to adopt occupational health and safety standards to protect the welfare of employees, and existing regulations provide for the prevention of heat-related illness of employees, as prescribed. Under existing law, it is a misdemeanor for an employer to violate a safety standard if the violation has a substantial probability of resulting in death or serious physical harm.*

*This bill would incorporate certain of these regulatory provisions into statute. The bill would additionally specify requirements for employers to provide employees access to shade when the temperature exceeds 85 degrees Fahrenheit and to implement designated high-heat procedures when the temperature equals or exceeds 95 degrees Fahrenheit. The bill would prohibit an employer from allowing an employee or a supervisor to engage in outdoor work without receiving training on specified topics and would require the employer to designate*

a person to ensure that emergency procedures are invoked when appropriate.

Because this bill would specify additional safety standards, the violation of which would be a misdemeanor, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The Community Redevelopment Law requires that not less than 20% of the tax-increment revenue allocated to a redevelopment agency be used to increase, improve, and preserve the supply of the community's low- and moderate-income housing within the territorial jurisdiction of the agency, unless a specified finding is made annually by resolution. In carrying out this purpose, existing law authorizes the agency to exercise any or all of its powers for the construction, rehabilitation, or preservation of affordable housing for extremely low, very low, low-, and moderate-income persons or families.~~

~~This bill would include among the agency's powers the authority to loan, grant, or otherwise contribute or pledge funds to an authorized purchaser, as defined, of low-income housing tax credits for the construction of low-income rental housing located within the community, as specified. The bill would make these provisions inoperative on January 1, 2012.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 6713 is added to the Labor Code, to read:
- 2     6713. (a) The following definitions apply for purposes of this
- 3     section:
- 4         (1) "Acclimatization" means temporary adaptation of the body
- 5         to work in the heat that occurs gradually when a person is exposed
- 6         to it.
- 7         (2) "Environmental risk factors for heat illness" means
- 8         working conditions that create the possibility that heat illness
- 9         could occur, including air temperature, relative humidity, radiant

1 *heat from the sun and other sources, conductive heat sources such*  
2 *as the ground, air movement, workload severity and duration,*  
3 *protective clothing, and personal protective equipment worn by*  
4 *employees.*

5 (3) *“Heat illness” means a serious medical condition resulting*  
6 *from the body’s inability to cope with a particular heat load, and*  
7 *includes heat cramps, heat exhaustion, heat syncope, and heat*  
8 *stroke.*

9 (4) *“Personal risk factors for heat illness” means factors such*  
10 *as a person’s age, degree of acclimatization, health, water*  
11 *consumption, alcohol consumption, caffeine consumption, and use*  
12 *of prescription medications that affect the body’s water retention*  
13 *or other physiological responses to heat.*

14 (5) *“Shade” means blockage of direct sunlight. One indicator*  
15 *that blockage of direct sunlight is sufficient is when objects do not*  
16 *cast a shadow in the area of blocked sunlight. Shade is not*  
17 *sufficient when heat in the area of shade defeats the purpose of*  
18 *shade, which is to allow the body to cool. Shade may be provided*  
19 *by any natural or artificial means that does not expose an employee*  
20 *to unsafe or unhealthy conditions. A car sitting in the sun does not*  
21 *provide acceptable shade to an employee inside it, unless the car*  
22 *is running with air-conditioning.*

23 (6) *“Temperature” means the dry bulb temperature in degrees*  
24 *Fahrenheit obtainable by using a thermometer to measure the*  
25 *outdoor temperature in an area where there is no shade. While*  
26 *the temperature measurement shall be taken in an area with full*  
27 *sunlight, the bulb or sensor of the thermometer shall be shielded*  
28 *while taking the measurement, with the hand or some other object,*  
29 *from direct contact by sunlight.*

30 (b) *An employer shall provide employees with continuous, ready*  
31 *access to fresh, pure, suitably cool potable drinking water meeting*  
32 *the requirements of Sections 1524, 3363, and 3457 of Title 8 of*  
33 *the California Code of Regulations, as applicable. Where drinking*  
34 *water is not plumbed or otherwise continuously supplied, the*  
35 *employer shall provide it in sufficient quantity at the beginning of*  
36 *the work shift to provide one quart per employee per hour for*  
37 *drinking for the entire shift. An employer may begin the shift with*  
38 *smaller quantities of water if the employer has an effective*  
39 *procedure for replenishment during the shift to allow employees*  
40 *to drink one quart or more per hour. The frequent drinking of*

1 water, as described in subparagraph (C) of paragraph (1) of  
2 subdivision (e), shall be encouraged by the employer.

3 (c) (1) When the outdoor temperature in the work area exceeds  
4 85 degrees Fahrenheit, an employer shall have and maintain one  
5 or more areas with shade at all times while employees are present  
6 that are either open to the air or provided with ventilation or  
7 cooling. The amount of shade shall be sufficient to accommodate,  
8 at minimum, 25 percent of the employees on the shift at any time,  
9 so that they can sit in a normal posture fully in the shade without  
10 being in physical contact with each other. The shaded area shall  
11 be located as close as practicable to areas where employees are  
12 working.

13 (2) When the outdoor temperature in the work area does not  
14 exceed 85 degrees Fahrenheit, an employer shall either provide  
15 shade as described in paragraph (1) or provide timely access to  
16 shade upon an employee's request.

17 (3) An employer shall allow and encourage an employee to take  
18 a cool-down rest in the shade for a period of not less than five  
19 minutes at a time when an employee feels the need to do so to  
20 protect himself or herself from overheating. The employer shall  
21 permit access to shade pursuant to this paragraph at all times.

22 (4) An employer other than an employer in the agricultural  
23 industry may provide cooling measures in lieu of shade, such as  
24 the use of misting machines, if the employer can demonstrate that  
25 these measures are at least as effective as shade in allowing  
26 employees to cool.

27 (d) An employer shall implement high-heat procedures when  
28 the outdoor temperature equals or exceeds 95 degrees Fahrenheit.  
29 These procedures shall include all of the following to the extent  
30 practicable:

31 (1) Ensuring that effective communication by voice, observation,  
32 or electronic means is maintained so that employees at the worksite  
33 can contact a supervisor when necessary. An electronic device,  
34 such as a cell phone or a text messaging device, may be used for  
35 this purpose if reception in the area is reliable.

36 (2) Using a buddy system.

37 (3) Observing employees for alertness and signs or symptoms  
38 of heat illness.

39 (4) Reminding employees throughout the work shift to drink  
40 plenty of water.

1     (5) *Supervising new employees closely by a supervisor or*  
2 *designee for the first 14 days of the employee's employment by the*  
3 *employer, unless the employee indicates at the time of hire that he*  
4 *or she has been doing similar outdoor work for at least 10 of the*  
5 *past 30 days for four or more hours per day.*

6     (e) (1) *An employer shall provide training in the following*  
7 *topics to all supervisory and nonsupervisory employees:*

8     (A) *The environmental and personal risk factors for heat illness,*  
9 *as well as the added burden of heat load on the body caused by*  
10 *exertion, clothing, and personal protective equipment.*

11     (B) *The employer's procedures for complying with the*  
12 *requirements of this section.*

13     (C) *The importance of frequent consumption of small quantities*  
14 *of water, up to four cups per hour, when the work environment is*  
15 *hot and employees are likely to be sweating more than usual in*  
16 *the performance of their duties.*

17     (D) *The importance of acclimatization.*

18     (E) *The different types of heat illness and the common signs*  
19 *and symptoms of heat illness.*

20     (F) *The importance to employees of immediately reporting to*  
21 *the employer, directly or through the employee's supervisor,*  
22 *symptoms or signs of heat illness in themselves or in coworkers.*

23     (G) *The employer's procedures for responding to symptoms of*  
24 *possible heat illness, including the procedure for providing*  
25 *emergency medical services if they become necessary.*

26     (H) *The employer's procedures for contacting emergency*  
27 *medical services and, if necessary, for transporting employees to*  
28 *a point where they can be reached by an emergency medical service*  
29 *provider.*

30     (I) *The employer's procedures for ensuring that, in the event of*  
31 *an emergency, clear and precise directions to the worksite will be*  
32 *provided as needed to emergency responders.*

33     (2) *Prior to assigning a person to supervise employees working*  
34 *in the heat, an employer shall provide training to the person on*  
35 *the following topics:*

36     (A) *The information described in paragraph (1).*

37     (B) *The procedures that the supervisor is required to follow to*  
38 *implement the provisions of this section.*

1 (C) The procedures, including emergency response procedures,  
2 that the supervisor is required to follow when an employee exhibits  
3 symptoms consistent with possible heat illness.

4 (D) Procedures to monitor weather reports and the methods to  
5 respond to hot weather advisories.

6 (3) An employer shall not allow an employee or a supervisor  
7 to begin outdoor work until he or she has completed the training  
8 required by this subdivision.

9 (f) An employer shall set forth the procedures described in  
10 subparagraphs (B), (G), (H), and (I) of paragraph (1) of  
11 subdivision (e) in writing and shall make them available to its  
12 employees and to representatives of the division upon request. The  
13 procedures described in subparagraph (I) of paragraph (1) of  
14 subdivision (e) shall include designating a person to be available  
15 to ensure that emergency procedures are invoked when  
16 appropriate. The employer may include the procedures in its Injury  
17 and Illness Prevention Program required by Section 3203 of Title  
18 8 of the California Code of Regulations or in a separate document.

19 SEC. 2. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 the only costs that may be incurred by a local agency or school  
22 district will be incurred because this act creates a new crime or  
23 infraction, eliminates a crime or infraction, or changes the penalty  
24 for a crime or infraction, within the meaning of Section 17556 of  
25 the Government Code, or changes the definition of a crime within  
26 the meaning of Section 6 of Article XIII B of the California  
27 Constitution.

28 SECTION 1. ~~Section 33334.2 of the Health and Safety Code~~  
29 ~~is amended to read:~~

30 ~~33334.2. (a) Not less than 20 percent of all taxes that are~~  
31 ~~allocated to the agency pursuant to Section 33670 shall be used~~  
32 ~~by the agency for the purposes of increasing, improving, and~~  
33 ~~preserving the community's supply of low- and moderate-income~~  
34 ~~housing available at affordable housing cost, as defined by Section~~  
35 ~~50052.5, to persons and families of low or moderate income, as~~  
36 ~~defined in Section 50093, lower income households, as defined~~  
37 ~~by Section 50079.5, very low income households, as defined in~~  
38 ~~Section 50105, and extremely low income households, as defined~~  
39 ~~by Section 50106, that is occupied by these persons and families,~~  
40 ~~unless one of the following findings is made annually by resolution:~~

1     ~~(1) (A) That no need exists in the community to improve,~~  
2 ~~increase, or preserve the supply of low- and moderate-income~~  
3 ~~housing, including housing for very low income households in a~~  
4 ~~manner that would benefit the project area and that this finding is~~  
5 ~~consistent with the housing element of the community's general~~  
6 ~~plan required by Article 10.6 (commencing with Section 65580)~~  
7 ~~of Chapter 3 of Division 1 of Title 7 of the Government Code,~~  
8 ~~including its share of the regional housing needs of very low~~  
9 ~~income households and persons and families of low or moderate~~  
10 ~~income.~~

11     ~~(B) This finding shall only be made if the housing element of~~  
12 ~~the community's general plan demonstrates that the community~~  
13 ~~does not have a need to improve, increase, or preserve the supply~~  
14 ~~of low- and moderate-income housing available at affordable~~  
15 ~~housing cost to persons and families of low or moderate income~~  
16 ~~and to very low income households. This finding shall only be~~  
17 ~~made if it is consistent with the planning agency's annual report~~  
18 ~~to the legislative body on implementation of the housing element~~  
19 ~~required by subdivision (b) of Section 65400 of the Government~~  
20 ~~Code. No agency of a charter city shall make this finding unless~~  
21 ~~the planning agency submits the report pursuant to subdivision (b)~~  
22 ~~of Section 65400 of the Government Code. This finding shall not~~  
23 ~~take effect until the agency has complied with subdivision (b) of~~  
24 ~~this section.~~

25     ~~(2) (A) That some stated percentage less than 20 percent of the~~  
26 ~~taxes that are allocated to the agency pursuant to Section 33670~~  
27 ~~is sufficient to meet the housing needs of the community, including~~  
28 ~~its share of the regional housing needs of persons and families of~~  
29 ~~low- or moderate-income and very low income households, and~~  
30 ~~that this finding is consistent with the housing element of the~~  
31 ~~community's general plan required by Article 10.6 (commencing~~  
32 ~~with Section 65580) of Chapter 3 of Division 1 of Title 7 of the~~  
33 ~~Government Code.~~

34     ~~(B) This finding shall only be made if the housing element of~~  
35 ~~the community's general plan demonstrates that a percentage of~~  
36 ~~less than 20 percent will be sufficient to meet the community's~~  
37 ~~need to improve, increase, or preserve the supply of low- and~~  
38 ~~moderate-income housing available at affordable housing cost to~~  
39 ~~persons and families of low or moderate income and to very low~~  
40 ~~income households. This finding shall only be made if it is~~

1 consistent with the planning agency's annual report to the  
2 legislative body on implementation of the housing element required  
3 by subdivision (b) of Section 65400 of the Government Code. No  
4 agency of a charter city shall make this finding unless the planning  
5 agency submits the report pursuant to subdivision (b) of Section  
6 65400 of the Government Code. This finding shall not take effect  
7 until the agency has complied with subdivision (b) of this section.

8 (C) For purposes of making the findings specified in this  
9 paragraph and paragraph (1), the housing element of the general  
10 plan of a city, county, or city and county shall be current, and shall  
11 have been determined by the department pursuant to Section 65585  
12 to be in substantial compliance with Article 10.6 (commencing  
13 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the  
14 Government Code.

15 (3) (A) That the community is making a substantial effort to  
16 meet its existing and projected housing needs, including its share  
17 of the regional housing needs, with respect to persons and families  
18 of low and moderate income, particularly very low income  
19 households, as identified in the housing element of the  
20 community's general plan required by Article 10.6 (commencing  
21 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the  
22 Government Code, and that this effort, consisting of direct financial  
23 contributions of local funds used to increase and improve the  
24 supply of housing affordable to, and occupied by, persons and  
25 families of low or moderate income and very low income  
26 households is equivalent in impact to the funds otherwise required  
27 to be set aside pursuant to this section. In addition to any other  
28 local funds, these direct financial contributions may include federal  
29 or state grants paid directly to a community and that the community  
30 has the discretion of using for the purposes for which moneys in  
31 the Low and Moderate Income Housing Fund may be used. The  
32 legislative body shall consider the need that can be reasonably  
33 foreseen because of displacement of persons and families of low  
34 or moderate income or very low income households from within,  
35 or adjacent to, the project area, because of increased employment  
36 opportunities, or because of any other direct or indirect result of  
37 implementation of the redevelopment plan. No finding under this  
38 subdivision may be made until the community has provided or  
39 ensured the availability of replacement dwelling units as defined



1 in Section 33411.2 and until it has complied with Article 9  
2 (commencing with Section 33410):

3 (B) In making the determination that other financial  
4 contributions are equivalent in impact pursuant to this subdivision,  
5 the agency shall include only those financial contributions that are  
6 directly related to programs or activities authorized under  
7 subdivision (e):

8 (C) The authority for making the finding specified in this  
9 paragraph shall expire on June 30, 1993, except that the expiration  
10 shall not be deemed to impair contractual obligations to  
11 bondholders or private entities incurred prior to May 1, 1991, and  
12 made in reliance on the provisions of this paragraph. Agencies that  
13 make this finding after June 30, 1993, shall show evidence that  
14 the agency entered into the specific contractual obligation with  
15 the specific intention of making a finding under this paragraph in  
16 order to provide sufficient revenues to pay off the indebtedness:

17 (b) Within 10 days following the making of a finding under  
18 either paragraph (1) or (2) of subdivision (a), the agency shall send  
19 the Department of Housing and Community Development a copy  
20 of the finding, including the factual information supporting the  
21 finding and other factual information in the housing element that  
22 demonstrates that either (1) the community does not need to  
23 increase, improve, or preserve the supply of housing for low- and  
24 moderate-income households, including very low income  
25 households, or (2) a percentage less than 20 percent will be  
26 sufficient to meet the community's need to improve, increase, and  
27 preserve the supply of housing for low- and moderate-income  
28 households, including very low income households. Within 10  
29 days following the making of a finding under paragraph (3) of  
30 subdivision (a), the agency shall send the Department of Housing  
31 and Community Development a copy of the finding, including the  
32 factual information supporting the finding that the community is  
33 making a substantial effort to meet its existing and projected  
34 housing needs. Agencies that make this finding after June 30, 1993,  
35 shall also submit evidence to the department of its contractual  
36 obligations with bondholders or private entities incurred prior to  
37 May 1, 1991, and made in reliance on this finding:

38 (c) In any litigation to challenge or attack a finding made under  
39 paragraph (1), (2), or (3) of subdivision (a), the burden shall be  
40 upon the agency to establish that the finding is supported by

1 substantial evidence in light of the entire record before the agency.  
2 If an agency is determined by a court to have knowingly  
3 misrepresented any material facts regarding the community's share  
4 of its regional housing need for low- and moderate-income housing,  
5 including very low income households, or the community's  
6 production record in meeting its share of the regional housing need  
7 pursuant to the report required by subdivision (b) of Section 65400  
8 of the Government Code, the agency shall be liable for all court  
9 costs and plaintiff's attorney's fees, and shall be required to allocate  
10 not less than 25 percent of the agency's tax increment revenues to  
11 its Low and Moderate Income Housing Fund in each year  
12 thereafter.

13 (d) Nothing in this section shall be construed as relieving any  
14 other public entity or entity with the power of eminent domain of  
15 any legal obligations for replacement or relocation housing arising  
16 out of its activities.

17 (e) In carrying out the purposes of this section, the agency may  
18 exercise any or all of its powers for the construction, rehabilitation,  
19 or preservation of affordable housing for extremely low, very low,  
20 low- and moderate-income persons or families, including the  
21 following:

22 (1) Acquire real property or building sites subject to Section  
23 33334.16.

24 (2) (A) Improve real property or building sites with onsite or  
25 offsite improvements, but only if both (i) the improvements are  
26 part of the new construction or rehabilitation of affordable housing  
27 units for low- or moderate-income persons that are directly  
28 benefited by the improvements, and are a reasonable and  
29 fundamental component of the housing units, and (ii) the agency  
30 requires that the units remain available at affordable housing cost  
31 to, and occupied by, persons and families of extremely low, very  
32 low, low, or moderate income for the same time period and in the  
33 same manner as provided in subdivision (c) and paragraph (2) of  
34 subdivision (f) of Section 33334.3.

35 (B) If the newly constructed or rehabilitated housing units are  
36 part of a larger project and the agency improves or pays for onsite  
37 or offsite improvements pursuant to the authority in this  
38 subdivision, the agency shall pay only a portion of the total cost  
39 of the onsite or offsite improvement. The maximum percentage  
40 of the total cost of the improvement paid for by the agency shall

1 be determined by dividing the number of housing units that are  
2 affordable to low- or moderate-income persons by the total number  
3 of housing units, if the project is a housing project, or by dividing  
4 the cost of the affordable housing units by the total cost of the  
5 project, if the project is not a housing project.

6 ~~(3) Donate real property to private or public persons or entities.~~

7 ~~(4) Finance insurance premiums pursuant to Section 33136.~~

8 ~~(5) Construct buildings or structures.~~

9 ~~(6) Acquire buildings or structures.~~

10 ~~(7) Rehabilitate buildings or structures.~~

11 ~~(8) Provide subsidies to, or for the benefit of, extremely low~~  
12 ~~income households, as defined by Section 50106, very low income~~  
13 ~~households, as defined by Section 50105, lower income~~  
14 ~~households, as defined by Section 50079.5, or persons and families~~  
15 ~~of low or moderate income, as defined by Section 50093, to the~~  
16 ~~extent those households cannot obtain housing at affordable costs~~  
17 ~~on the open market. Housing units available on the open market~~  
18 ~~are those units developed without direct government subsidies.~~

19 ~~(9) Develop plans, pay principal and interest on bonds, loans,~~  
20 ~~advances, or other indebtedness, or pay financing or carrying~~  
21 ~~charges.~~

22 ~~(10) Maintain the community's supply of mobilehomes.~~

23 ~~(11) Preserve the availability to lower income households of~~  
24 ~~affordable housing units in housing developments that are assisted~~  
25 ~~or subsidized by public entities and that are threatened with~~  
26 ~~imminent conversion to market rates.~~

27 ~~(12) (A) Loan, grant, or otherwise contribute or pledge funds~~  
28 ~~to an authorized purchaser of low-income housing tax credits for~~  
29 ~~the construction of low-income rental housing located within the~~  
30 ~~community. For the purposes of this paragraph, an "authorized~~  
31 ~~purchaser" is limited to a joint powers entity created pursuant to~~  
32 ~~Article 1 (commencing with Section 6500) of Chapter 5 of Division~~  
33 ~~7 of Title 1 of the Government Code and consists of no less than~~  
34 ~~100 local agencies.~~

35 ~~(B) In exercising the power authorized pursuant to subparagraph~~  
36 ~~(A), the agency shall only assist housing developments with~~  
37 ~~preexisting commitments of redevelopment agency funds and shall~~  
38 ~~require a project sponsor to demonstrate a solid and sustained effort~~  
39 ~~to secure private investors before seeking the use of redevelopment~~  
40 ~~agency funds to purchase low-income tax credits.~~

1     ~~(C) This paragraph shall become inoperative on January 1, 2011.~~

2     ~~(f) The agency may use these funds to meet, in whole or in part,~~  
3     ~~the replacement housing provisions in Section 33413. However,~~  
4     ~~nothing in this section shall be construed as limiting in any way~~  
5     ~~the requirements of that section.~~

6     ~~(g) (1) The agency may use these funds inside or outside the~~  
7     ~~project area. The agency may only use these funds outside the~~  
8     ~~project area upon a resolution of the agency and the legislative~~  
9     ~~body that the use will be of benefit to the project. The~~  
10    ~~determination by the agency and the legislative body shall be final~~  
11    ~~and conclusive as to the issue of benefit to the project area. The~~  
12    ~~Legislature finds and declares that the provision of replacement~~  
13    ~~housing pursuant to Section 33413 is always of benefit to a project.~~  
14    ~~Unless the legislative body finds, before the redevelopment plan~~  
15    ~~is adopted, that the provision of low- and moderate-income housing~~  
16    ~~outside the project area will be of benefit to the project, the project~~  
17    ~~area shall include property suitable for low- and moderate-income~~  
18    ~~housing.~~

19    ~~(2) (A) The Contra Costa County Redevelopment Agency may~~  
20    ~~use these funds anywhere within the unincorporated territory, or~~  
21    ~~within the incorporated limits of the City of Walnut Creek on sites~~  
22    ~~contiguous to the Pleasant Hill BART Station Area Redevelopment~~  
23    ~~Project area. The agency may only use these funds outside the~~  
24    ~~project area upon a resolution of the agency and board of~~  
25    ~~supervisors determining that the use will be of benefit to the project~~  
26    ~~area. In addition, the agency may use these funds within the~~  
27    ~~incorporated limits of the City of Walnut Creek only if the agency~~  
28    ~~and the board of supervisors find all of the following:~~

29    ~~(i) Both the County of Contra Costa and the City of Walnut~~  
30    ~~Creek have adopted and are implementing complete and current~~  
31    ~~housing elements of their general plans that the Department of~~  
32    ~~Housing and Community Development has determined to be in~~  
33    ~~compliance with the requirements of Article 10.6 (commencing~~  
34    ~~with Section 65580) of Chapter 3 of Division 1 of Title 7 of the~~  
35    ~~Government Code.~~

36    ~~(ii) The development to be funded shall not result in any~~  
37    ~~residential displacement from the site where the development is~~  
38    ~~to be built.~~

1     ~~(iii) The development to be funded shall not be constructed in~~  
2     ~~an area that currently has more than 50 percent of its population~~  
3     ~~comprised of racial minorities or low-income families.~~

4     ~~(iv) The development to be funded shall allow construction of~~  
5     ~~affordable housing closer to a rapid transit station than could be~~  
6     ~~constructed in the unincorporated territory outside the Pleasant~~  
7     ~~Hill BART Station Area Redevelopment Project.~~

8     ~~(B) If the agency uses these funds within the incorporated limits~~  
9     ~~of the City of Walnut Creek, all of the following requirements~~  
10    ~~shall apply:~~

11    ~~(i) The funds shall be used only for the acquisition of land for,~~  
12    ~~and the design and construction of, the development of housing~~  
13    ~~containing units affordable to, and occupied by, low- and~~  
14    ~~moderate-income persons.~~

15    ~~(ii) If less than all the units in the development are affordable~~  
16    ~~to, and occupied by, low- or moderate-income persons, any agency~~  
17    ~~assistance shall not exceed the amount needed to make the housing~~  
18    ~~affordable to, and occupied by, low- or moderate-income persons.~~

19    ~~(iii) The units in the development that are affordable to, and~~  
20    ~~occupied by, low- or moderate-income persons shall remain~~  
21    ~~affordable for a period of at least 55 years.~~

22    ~~(iv) The agency and the City of Walnut Creek shall determine,~~  
23    ~~if applicable, whether Article XXXIV of the California Constitution~~  
24    ~~permits the development.~~

25    ~~(h) The Legislature finds and declares that expenditures or~~  
26    ~~obligations incurred by the agency pursuant to this section shall~~  
27    ~~constitute an indebtedness of the project.~~

28    ~~(i) This section shall only apply to taxes allocated to a~~  
29    ~~redevelopment agency for which a final redevelopment plan is~~  
30    ~~adopted on or after January 1, 1977, or for any area that is added~~  
31    ~~to a project by an amendment to a redevelopment plan, which~~  
32    ~~amendment is adopted on or after the effective date of this section.~~  
33    ~~An agency may, by resolution, elect to make all or part of the~~  
34    ~~requirements of this section applicable to any redevelopment~~  
35    ~~project for which a redevelopment plan was adopted prior to~~  
36    ~~January 1, 1977, subject to any indebtedness incurred prior to the~~  
37    ~~election.~~

38    ~~(j) (1) (A) An action to compel compliance with the~~  
39    ~~requirement of Section 33334.3 to deposit not less than 20 percent~~  
40    ~~of all taxes that are allocated to the agency pursuant to Section~~

1 33670 in the Low and Moderate Income Housing Fund shall be  
2 commenced within 10 years of the alleged violation. A cause of  
3 action for a violation accrues on the last day of the fiscal year in  
4 which the funds were required to be deposited in the Low and  
5 Moderate Income Housing Fund.

6 (B) ~~An action to compel compliance with the requirement of~~  
7 ~~this section or Section 33334.6 that money deposited in the Low~~  
8 ~~and Moderate Income Housing Fund be used by the agency for~~  
9 ~~purposes of increasing, improving, and preserving the community's~~  
10 ~~supply of low- and moderate-income housing available at~~  
11 ~~affordable housing cost shall be commenced within 10 years of~~  
12 ~~the alleged violation. A cause of action for a violation accrues on~~  
13 ~~the date of the actual expenditure of the funds.~~

14 (C) ~~An agency found to have deposited less into the Low and~~  
15 ~~Moderate Income Housing Fund than mandated by Section 33334.3~~  
16 ~~or to have spent money from the Low and Moderate Income~~  
17 ~~Housing Fund for purposes other than increasing, improving, and~~  
18 ~~preserving the community's supply of low- and moderate-income~~  
19 ~~housing, as mandated, by this section or Section 33334.6 shall~~  
20 ~~repay the funds with interest in one lump sum pursuant to Section~~  
21 ~~970.4 or 970.5 of the Government Code or may do either of the~~  
22 ~~following:~~

23 (i) ~~Petition the court under Section 970.6 for repayment in~~  
24 ~~installments.~~

25 (ii) ~~Repay the portion of the judgment due to the Low and~~  
26 ~~Moderate Income Housing Fund in equal installments over a period~~  
27 ~~of five years following the judgment.~~

28 (2) ~~Repayment shall not be made from the funds required to be~~  
29 ~~set aside or used for low- and moderate-income housing pursuant~~  
30 ~~to this section.~~

31 (3) ~~Notwithstanding clauses (i) and (ii) of subparagraph (C) of~~  
32 ~~paragraph (1), all costs, including reasonable attorney's fees if~~  
33 ~~included in the judgment, are due and shall be paid upon entry of~~  
34 ~~judgment or order.~~

35 (4) ~~Except as otherwise provided in this subdivision, Chapter~~  
36 ~~2 (commencing with Section 970) of Part 5 of Division 3.6 of Title~~  
37 ~~1 of the Government Code for the enforcement of a judgment~~  
38 ~~against a local public entity applies to a judgment against a local~~  
39 ~~public entity that violates this section.~~

1     ~~(5) This subdivision applies to actions filed on and after January~~  
2     ~~1, 2006.~~  
3     ~~(6) The limitations period specified in subparagraphs (A) and~~  
4     ~~(B) of paragraph (1) does not apply to a cause of action brought~~  
5     ~~pursuant to Chapter 9 (commencing with Section 860) of Title 10~~  
6     ~~of Part 2 of the Code of Civil Procedure.~~

O